

1 **CITY COUNCIL OF THE CITY OF ANNAPOLIS**

2
3 **ORDINANCE NO. O-8-04 Amended**

4
5 **Introduced by Alderman Cohen**
6

7
8 **AN ORDINANCE** concerning
9

10 **Amended Lease of City Property to Chesapeake Children's Museum**
11

12
13 **FOR** the purpose of amending the current lease with the Chesapeake Children's
14 Museum, Inc., for the facility located as 25 Silopanna Road to permit overnight
15 stays; and matters generally relating to said lease.
16

17 * * * * *

18
19 **WHEREAS,** the City of Annapolis currently leases to the Chesapeake Children's Museum
20 a major portion of the real property located at 25 Silopanna Road in the City
21 of Annapolis, Maryland commonly referred to as the WYRE building (the
22 "Property") for in-kind services and improvements; and
23

24 **WHEREAS,** the Chesapeake Children's Museum has requested that the current lease
25 adopted by O-19-01 be amended to permit overnight stays and cooking to
26 take place on the premises; and
27

28 **WHEREAS,** City Charter, Article III, Section 8 requires that such leases be approved by
29 ordinance of the City Council.
30

31 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**
32 **COUNCIL** and consistent with Article III, Section 8 of the Annapolis City Code that the
33 Amended Lease Agreement between the City of Annapolis and the Chesapeake Children's
34 Museum, Inc., for the rental of a portion of certain City property located at 25 Silopanna
35 Road, Annapolis, Maryland, as more particularly described in the Lease Agreement, a copy
36 of which is attached hereto and made a part of this Ordinance, for the term and rental
37 specified in the Lease Agreement, is hereby approved. It is expressly determined by the
38 City Council that the leasing of the property which is the subject of the Amended Lease
39 Agreement will better serve the public need for which the property was acquired.
40

41 **SECTION II: AND, BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
42 **ANNAPOLIS CITY COUNCIL** that the Mayor is hereby authorized to sign the amended
43 Lease Agreement on behalf of the City of Annapolis.
44

SECTION III: AND, BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this Ordinance shall take effect from the date of passage.

ADOPTED this day of , 2004.

ATTEST: THE ANNAPOLIS CITY COUNCIL

Deborah Heinbuch, MMC
City Clerk

BY: ELLEN O. MOYER, MAYOR

EXPLANATION:

Redlining indicates matter added to existing law.

~~Strike Out indicates matter deleted from existing law.~~

Underlining indicates amendments.

**LEASE AGREEMENT
BETWEEN CITY OF ANNAPOLIS AND CHESAPEAKE CHILDREN'S
MUSEUM**

THIS LEASE AGREEMENT is made as of this ____ day of _____, 2004 by and between the **CHESAPEAKE CHILDREN'S MUSEUM, INC.** a Maryland corporation (hereinafter called "Lessee") and the **CITY OF ANNAPOLIS**, a municipal corporation of the State of Maryland (hereinafter called "Lessor").

WHEREAS, the City of Annapolis owns 5.25 acres of land, more or less, as more accurately described in a Deed recorded at Liber 4881, folio 076 among the Land Records of Anne Arundel County, and all improvements located thereon; and

WHEREAS, the Lessee desires to lease a portion of the building located on the aforementioned property from the Lessor to house the Chesapeake Children's Museum; and

WHEREAS, the Lessor desires to lease a portion of the building to Lessee for the purpose of locating the Museum therein; and

WHEREAS, the parties hereto wish to enter into a Lease Agreement setting forth their respective rights and obligations.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby do mutually agree as follows:

1. Leased Premises: Lessor does hereby lease to Lessee a portion of the building located on the property known as 25 Silopanna Road, situated, lying and being in the City of Annapolis, Maryland, which is more accurately described on the attached Exhibit "A", consisting of 2,191 +/- square feet (hereinafter referred to as the "Premises" or the "Leased Space"). The property known as 25 Silopanna Road is hereinafter referred to as the "Property". The building located on the property (including the Leased Space) is hereinafter referred to as the "Building". The Premises shall be leased in an "as is" condition, with all faults, and Lessor makes no representation or warranty with regard to habitability of the Premises or with regard to its suitability for any particular use. The unfinished portion of the basement of the building, the space leased to Bay Broadcasting

1 Corporation as of the date of this Lease Agreement and all other portions of the building
2 not specifically shown on Exhibit "A" as part of the Premises are specifically excluded from
3 this Lease Agreement. The portion of the building which is the subject of this Lease
4 Agreement is outlined on the attached Exhibit "A".

5 A. Lessee acknowledges that there are community groups that use the Premises
6 for meetings as of the date of this Lease Agreement. Lessee's use of the Premises is
7 subject to the continued use of the Premises by those community groups which are
8 identified on Exhibit "B" attached hereto. Lessee shall take possession of the Premises
9 subject to the continued use of the Premises by those community groups, shall make the
10 Premises available to said groups, and shall coordinate with such groups the use of the
11 Premises by the groups.

12
13 B. Lessee and its invitees are granted bus access to the Premises for the
14 purpose of drop-offs and pickups only. Bus access to the Premises shall be exclusively
15 from Boxwood Road. All other vehicular access to the Premises shall be from adjacent
16 public roads.

17
18 C. Lessee, its guests, employees and its invitees are granted reasonable parking
19 privileges on Lessor's parking lot at the property at 25 Silopanna Road, excluding buses,
20 as necessary to allow reasonable use of the Premises by Lessee under the terms of this
21 Lease Agreement. Lessee shall not park (nor shall it allow its guests, employees or invitees
22 to park) buses on the Property unless authorized by an amendment to this Lease
23 Agreement which amendment shall be agreed to only if Lessee expands the parking lot as
24 may be required by Lessor following submission by Lessee of a site design which shall
25 comply with critical areas requirements as well as all other requirements of law.

26
27 2. **Term:** This Lease Agreement shall be for an initial term of five (5) years
28 commencing July 1, 2001 and terminating on June 30, 2006. Thereafter, this Lease
29 Agreement may be extended for two additional and consecutive terms of five (5) years

1 each at the sole discretion of Lessor commencing July 1, 2006 and July 1, 2011,
2 respectively. This Lease Agreement shall terminate at the conclusion of the initial term
3 without further action by Lessor unless Lessor shall, by resolution adopted not later than
4 May 1, 2006, grant the first additional five-year term. If so granted, this Lease Agreement
5 shall terminate at the conclusion of the first additional five-year term without further action
6 by Lessor unless Lessor shall, by resolution adopted not later than May 1, 2011, grant the
7 second additional five-year term.

8
9 **3. Rent:** In lieu of monetary rental payments, Lessee shall at its sole cost and
10 expense make improvements to and render services at the Premises, all of which shall be
11 considered "in-kind" rental payments, as follows:

12
13 A. Prior to its occupancy of the Premises, Lessee shall at its sole cost and
14 expense: (I.) make the improvements and provide the services set forth in the attached
15 Exhibit "C"; (II.) make such other improvements to the Premises which are necessary for
16 the Lessee to obtain all licenses and permits, including a City occupancy permit, required
17 for the operation of Lessee's business at the Premises; and (III.) submit to the Department
18 of Planning and Zoning and the Department of Public Works for approval, a parking layout
19 for the Property including striping of all parking spaces and the designation of handicapped
20 spaces. All such improvements shall be made and services rendered by professionals
21 licensed by the state of Maryland. Lessee shall complete the improvements and provide
22 the services set forth in this Paragraph and shall obtain all licenses and permits, including
23 an occupancy permit required to operate its business at the Premises, and the Lessee shall
24 occupy the Premises, all within one year from the date of this Lease Agreement. If Lessee
25 fails to comply with the requirements of this Paragraph by the first anniversary of the date
26 of this Lease Agreement, the Agreement shall automatically terminate without further action
27 required by Lessor and the remedies of Paragraph 12A shall fully apply.

1 B. During the initial term of this Lease Agreement and any additional term
2 hereof, of this Lease Agreement, Lessee shall, at its sole cost and expense, make such
3 improvements to and render such services at the Premises to assure compliance with all
4 applicable City zoning, building and fire code requirements. All such improvements shall
5 be made and services rendered by professional contractors licensed by the State of
6 Maryland.

7
8 C. In addition to the above, during the initial term of this Lease Agreement and
9 any additional term hereof, Lessee shall, at its sole cost and expense, maintain the
10 Property as required by this Lease Agreement and in accordance with all applicable State,
11 County and City laws, ordinances and regulations. Said maintenance shall include the
12 maintenance of the Leased Premises and the other portions of the Property as provided
13 in Section 6 below. Said maintenance shall also include, but not be limited to, snow and
14 ice removal as provided in Section 7 below.

15
16 D. No later than April 30 of each year that this Lease Agreement is in effect,
17 Lessee shall provide Lessor with a complete accounting of the improvements made and
18 services provided by Lessee pursuant to the provisions of this Lease Agreement along with
19 documentation, in such form as Lessor may require, of the expenditure of money related
20 to such improvements and services. All improvements to the Building and to the Leased
21 Premises made pursuant to this Lease Agreement shall become the property of the Lessor.

22
23 **4. Use of Leased Space:** The Lessee shall use and occupy the Leased Space
24 for the sole purpose of operating the Chesapeake Children's Museum. Lessee shall be
25 permitted to provide at the Premises only those activities set forth in the attached Exhibit
26 "D." Lessee shall not, under any circumstances, be permitted to provide daycare services
27 on the Premises. ~~Lessee shall not allow any person (including but not limited to guests,~~
28 ~~invitees or employees) to be on the Premises between the hours of 10:00 PM and 5:00 AM~~
29 ~~or to cook on the Premises. The term "cook" as used herein shall mean to prepare food by~~

1 means of heat, other than by microwave oven. Use of a microwave oven on the Premises
2 shall be limited to Lessee's employees heating individual meals for their personal
3 consumption. Any cooking on the Premises will be conducted or immediately supervised
4 by adults. Any appliance needed for said cooking must be installed in accordance with
5 Anne Arundel County Health Department regulations and through the City permitting
6 process.

7 A. Lessee shall not expand, modify or make improvements to the Leased Space
8 (including improvements required pursuant to Section 3 of this Lease Agreement) without
9 the prior written approval of Lessor. Any improvements to the Leased Space undertaken
10 by Lessee shall be performed by professional contractors licensed by the State of
11 Maryland. Lessee shall obtain all necessary permits required to perform any improvements
12 to the Premises.

13
14 B. Lessor retains the right to utilize 25 Silopanna Road, all facilities, parking
15 areas, improvements and buildings located thereon for any purpose (including, but not
16 limited to, office space, storage, mobile phone antenna placement, communications towers)
17 so long as such utilization does not preclude Lessee's use of its Lease Space as described
18 herein.

19
20 5. **Assignment and Subleasing**: This Lease Agreement may not be assigned
21 or sublease, in whole or in part, by Lessee without the prior written consent of Lessor.
22

23 6. **Maintenance of Leased Space and Property**: Lessee shall be solely
24 responsible for the maintenance of the Leased Space, at its sole expense and cost, and
25 shall keep in good repair all improvements located therein. In addition, Lessee shall be
26 solely responsible for the maintenance of the Property (other than any space rented to
27 other tenants), at its sole expense and cost, and shall keep in good repair all improvements
28 located thereon. Lessee shall provide to the Leased Space and to the Property (other than
29 any space rented to other tenants) on a weekly basis, janitorial work, grounds

1 maintenance, landscape maintenance and building maintenance and shall police, light and
2 maintain the Property in a clean, safe and secure manner. Lessee shall be responsible for
3 the maintenance and operation of the building HVAC system. Maintenance of the Property
4 shall include upkeep of the parking lot, all walkways that lead from the parking lot to the
5 Building and landscape maintenance. Lessee shall not plant any plant materials, trees or
6 shrubs or alter in any way the existing landscaping on the Property. Lessee's "landscape
7 maintenance" responsibility authorizes Lessee only to water the existing landscaping, prune
8 and weed. If Lessee desires to perform additional landscaping at the Property, it must
9 submit a landscape plan to the Lessor and obtain the prior written approval of the Lessor
10 prior to performing any work. Lessee's "janitorial work" shall include, but not be limited to,
11 cleaning any and all bathroom facilities; trash disposal; cleaning windows, floors; and all
12 other general and/or routine janitorial maintenance.
13

14 **7. Snow and Ice Removal:** Lessee shall contract for the removal of all snow
15 and ice from the driveways, roadways, stairs, sidewalks, parking areas and other rights-of-
16 way located on the Property, it being understood by the parties that Lessor shall have no
17 obligation or duty with regard to the same.
18

19 **8. Security:** Lessee hereby assumes all risks associated with the security of the
20 Property (other than any space rented to other tenants) and the Premises, it being
21 understood by the parties that the Lessor shall have no obligation or duty with regard to
22 same. In addition, Lessee hereby assumes the responsibility for the security of all portions
23 of the Premises, it being understood by the parties the Lessor shall have no obligation or
24 duty with regard to same. Lessor shall not be responsible for any damages, loss or injury
25 (to person or to property) claimed by Lessee, its employees, guests or invitees due to theft,
26 casualty, fire of every naturetype and description, act of God, the accumulation of ice or
27 snow, the condition of the Property or any other cause, while upon the Leased Premises
28 or the Property.
29

1 **9. Insurance:** Lessee shall insure against any damage that may occur to any
2 person or to the Premises and/or improvements or personal property thereon during
3 Lessee's occupancy or use of the Premises. The Lessee shall insure against the risk of any
4 and all damages, loss, injury (to person or to property), theft or casualty, fire of every nature
5 type and description, act of God, the accumulation of ice or snow, the condition of the
6 Property or any other cause, related to its use and occupancy of the Premises.. Lessee
7 shall submit a Certificate of Insurance evidencing said insurance within twenty-four hours
8 of signing this Lease Agreement. The Lessor shall be named as an additional insured.
9 The Insurance shall be in an amount and form acceptable to the Lessor. **Also, the lessee**
10 **shall purchase property insurance in the amount of \$200,000.**
11

12 **10. Indemnification:** Lessee shall, at its sole expense, fully indemnify, defend
13 and hold harmless the Lessor, and in their capacity as such, the officers, agents and
14 employees thereof, from and against any and all claims, suits, actions, liability, judgments
15 or damages for actual or alleged injury to persons, to the leased Premises or to other
16 property (including loss of use of the leased premises or other property whether or not such
17 premises or property is physically damaged or destroyed), in any way arising out of or
18 through, or alleged to arise out of or through: (1) the acts or omissions of Lessee or its
19 officers, agents, employees, or contractors or to which act or omission of Lessee or its
20 officers, agents, employees or contractors in any way contribute; or (2) Lessee's use of the
21 Leased Space.
22

23 Nothing herein shall be deemed to prevent the parties indemnified and held
24 harmless herein from participating in the defense of any litigation by or through their own
25 legal counsel at Lessee's sole expense. Such participation shall not under any
26 circumstances relieve Lessee from its duty of defense against liability or of paying any
27 judgment entered against such party.
28

1 Any claim for injury to person or property based in part or in whole on the
2 allegation of insufficiency or negligence in the condition of the premises, snow or ice
3 thereon or the security at the Premises shall be considered to be a claim within the scope
4 of this paragraph.

5
6 **11. Permits:** Lessee shall be solely responsible for the acquisition of any and
7 all permits and any other items necessary for its use of the Premises. Lessor makes no
8 warranties or assurances regarding the availability of necessary permits nor the legality of
9 Lessee's proposed use of the Leased Space.

10
11 **12. Remedies upon Default:** The following remedies shall apply in the case of
12 default:

13 A. In the event that Lessee shall be in default in the performance of any
14 term or condition agreed to be kept and performed by Lessee (including but not limited to
15 any provision of Paragraph 3B, 3C or 3D) and said default shall not be cured to the
16 satisfaction of the City of Annapolis Central Services Director (the "Director") within 10 days
17 of written notice by the Director to Lessee to cure same, then in that event, Lessor (by and
18 through the Director) may terminate and end this Lease Agreement, immediately, and
19 Lessor may forthwith without other notice or previous demand re-enter and re-possess the
20 leased premises without further form or process of law, by force or otherwise, and remove
21 all persons and property, without the Lessor or its agents and servants being liable to any
22 prosecution or damages therefor. No such recovering possession of the Leased Premises
23 shall deprive the Lessor of any other action or claim against the Lessee for possession, for
24 rent or for damages.

25 B. In the event of default hereunder by Lessee or in the event of any
26 breach by Lessee of any term of this Lease Agreement resulting in an action at law or
27 equity, then in addition to all other sums due by Lessee under the terms of this Lease
28 Agreement, Lessee shall pay the Lessor as Additional Rent hereunder reasonable
29 attorneys' fees.

1
2
3 **13. Removal of Personal Property:** At the end of Lessee's tenancy, Lessee
4 shall promptly remove, at its own expense, any and all personal property placed by
5 Lessee, its employees, guests or invitees upon the Leased Space or the Property. Any
6 Personal Property not removed by Lessee at the end of the Lease Agreement shall
7 become the property of Lessor.
8

9 **14. Telecommunications Build-Out:** Lessee shall assume all expenses
10 associated with a telecommunications build-out of the Premises including but not limited
11 to telephone, telefax, computer, cable installation, it being understood by the parties that
12 Lessor shall have no obligation or duty with regard to same.
13

14 **15. Utility Expenses:** Lessor shall invoice Lessee monthly for Lessee's utility
15 expenses incurred at the Premises (water, sewer, electric, refuse removal, recycling, etc.).
16 Lessee shall pay the amount invoiced to Lessor in full. Lessee agrees to pay a late fee of
17 \$25.00 if any such invoice is not paid within five days of its delivery to Lessee.
18

19 **16. Benefit and Burden:** The provisions of this Lease Agreement shall be
20 binding upon and inure to the benefit of the parties hereto and each of their respective
21 representative, successors and assigns.
22

23 **17. Governing Law:** This Lease Agreement shall be governed and construed
24 in accordance with the laws of the State of Maryland.
25

26 **18. Captions:** The captions at the beginning of each section of the Lease
27 Agreement are asserted only as a matter of convenience or reference purposes.
28

1 **19. Entire Agreement:** This Lease Agreement contains the entire agreement
2 between the parties hereto and any agreement (written or oral) hereafter or heretofore
3 made shall not operate to change, modify, terminate or discharge this Lease Agreement
4 in whole or in part unless such agreement is reduced to writing and signed by each of the
5 parties hereto.

6
7 **20. Compliance with Legal Requirements:** Lessee shall, at its sole cost and
8 expense and risk, comply with all applicable laws, statutes, ordinances, rules, orders,
9 regulations, and requirements of the federal, state and local governments, and all of their
10 departments and bureaus, that now or hereafter may be applicable to the Premises, plus
11 any and all rules and regulations issued by the Association of Fire Underwriters, or similar
12 governing insurance body, that now or hereafter may be applicable to the Premises.

13
14 **21. Severability:** The provisions of this Lease Agreement are severable and if
15 any provision, clause, sentence, section or part hereof is held illegal, invalid,
16 unconstitutional or inapplicable to any person or circumstances, such provision shall be
17 stricken and the balance shall remain in tact provided Lessee has the right to remain in
18 possession of the property at the rent as set forth herein.

19
20 **22. Notices:** Any and all notices required to be sent under this Lease Agreement
21 shall be sent as follows:

22
23 **Lessor:** Central Services Director
24 City of Annapolis
25 160 Duke of Gloucester Street
26 Annapolis, MD 21401

27
28 -And-
29

City Attorney
City of Annapolis
160 Duke of Gloucester Street
Annapolis, MD 214

Lessee: Chesapeake Children’s Museum, Inc.
Deborah Wood, President
25 Silopanna Road
Annapolis, MD 21403

23. Time of the Essence: Time is of the essence of each provision of this Lease Agreement.

24. Authorization: This Lease Agreement is authorized by Ordinance O-19-01.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement the day and year first above written:

ATTEST:	LESSEE:
	Chesapeake Children’s
	Museum, Inc.

BY: _____	BY: _____
Name: _____	Name: _____
Title: _____	Title: _____

ATTEST:	LESSOR:
	CITY OF ANNAPOLIS

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_____	BY: _____
DEBORAH HEINBUCH, MMC	ELLEN O. MOYER
CITY CLERK	MAYOR

Approved as to form and legal sufficiency:

_____	_____
Shaem C. Spencer	Date
City Attorney	